

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 19-CR-67
)	Green Bay, Wisconsin
vs.)	
)	September 1, 2020
XENGXAI YANG,)	1:57 p.m.
)	
Defendant.)	
)	

TRANSCRIPT OF TELEPHONE STATUS CONFERENCE
BEFORE THE HONORABLE WILLIAM C. GRIESBACH
UNITED STATES SENIOR DISTRICT JUDGE

APPEARANCES:

For the Plaintiff

UNITED STATES OF AMERICA: United States Department of
Justice
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TRANSCRIPT OF PROCEEDINGS

Transcribed From Audio Recording

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THE COURT: United States of America v. Xengxai Yang, Case No. 19-CR-67. And we have Assistant United States Attorney Andrew Maier for the Government and Assistant Federal Defender Thomas Phillip for the defendant. And we put this on the calendar to address further proceedings after the Court granted the Motion to Withdraw Plea and reinstate the insanity plea. If I understand correctly, Mr. Phillip, the only issue at a trial would be the insanity defense?

MR. PHILLIP: Yes. I think that's likely. I would file a notice of the insanity defense under Rule 12.2 and 18 U.S.C. § 17. That's more of a notice pleading than anything else, but I think I should do that. I can do that in the very near future. And I will talk with my client. I'll try to see him tomorrow but previously when we discussed alternatives, different possibilities on how the case might go, he indicated to me that he would likely agree with a court trial. And again in my opinion really, the issue would be his mental state.

I don't -- I have very briefly only raised some of those issues with the Government, and so we didn't come to any conclusions between us but we did have a preliminary conversation about some of those issues. So I think I'm answering a question the Court has not yet asked, but again I

1 would file a notice regarding the insanity defense and then I am
2 I guess unsure how to calendar the case right now given that I
3 need to talk with the Government and my client some more about a
4 court trial. So but again, I think now I've strayed away from
5 the Court's initial easy question.

6 THE COURT: Mr. Maier, any thoughts?

7 MR. MAIER: Judge, we did talk briefly about some
8 possibilities, and I think maybe if we had a status be it in
9 person or over the phone, matters very little to me, in a couple
10 weeks, I think Attorney Phillip and I can talk and try to figure
11 out if we have some framework, maybe we can agree upon and then
12 schedule from there. If it does go down that road, we'll
13 probably both have to speak with Dr. Berney and Johnson to make
14 sure whatever schedule works with them anyway. That will give
15 as an opportunity to do that.

16 THE COURT: How about -- how about -- And if your
17 client intends to waive his right to a jury trial, we will want
18 to have either an in person or at least a Zoom. We would want
19 him present at least for a Zoom hearing.

20 MR. PHILLIP: Right.

21 THE COURT: It can be Zoom. He is in custody, and I
22 know that if he comes out if it's segregation. He will be in
23 quarantine going back in I guess.

24 MR. PHILLIP: Yes, that's something I'll discuss with
25 him too. I think Mr. Maier made a good suggestion about a

1 status conference because that will give us some time to speak
2 and some time for me to talk with my client.

3 THE COURT: Okay. You want it two weeks? The 15th?

4 MR. MAIER: The 15th itself is not a good day for me.

5 THE COURT: That's a grand jury day. What about the
6 11th, next Friday, does that work? Would you want more time?

7 MR. PHILLIP: I prefer a little more time than that,
8 please.

9 THE COURT: Okay. How about, you know, with trials
10 going away, you tell me what works, and I'll fit it in.

11 MR. PHILLIP: The 18th of September is free as is the
12 21st.

13 THE COURT: Are you here at any time that day?

14 MR. PHILLIP: Not yet, no.

15 THE COURT: Okay. How about 11:30 on the 18th?

16 MR. PHILLIP: Thank you.

17 MR. MAIER: That works very well. Thank you.

18 THE COURT: That will be -- You know, it can be by
19 telephone unless you decide you want to have, you know, some
20 sort of more formal hearing if your client wishes to appear for
21 example or be on Zoom.

22 MR. PHILLIP: Okay.

23 THE COURT: Just let the clerk know if you wish to
24 change it from telephone.

25 MR. PHILLIP: Okay. I will do so.

1 THE COURT: At this point, we'll just make it counsel
2 only unless you advise otherwise, is that all right?

3 MR. PHILLIP: Yes. Thank you.

4 THE COURT: Okay. Good. Thank you all.

5 MR. MAIER: Thank you, Judge.

6 MR. PHILLIP: Thank you.

7 THE COURT: I don't think I need to say it.
8 Obviously, time is excluded under the Speedy Trial Act now. I
9 think we're --

10 MR. PHILLIP: I agree.

11 THE COURT: Thank you all. Good-by.

12 MR. MAIER: Thank you.

13 MR. PHILLIP: Thank you.

14 (Whereupon proceeding was concluded.)
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C E R T I F I C A T E

I, SUSAN ARMBRUSTER, RMR, Official Court Reporter and Transcriptionist for the United States District Court for the Eastern District of Wisconsin, do hereby certify that the foregoing pages are a true and accurate transcription of the audio file provided in the aforementioned matter to the best of my skill and ability.

Signed and Certified November 19, 2021.

/s/Susan Armbruster

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